

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

September 17, 2004

Mr. Dennis Gimmestad
Minnesota Historical Society
345 W. Kellogg Blvd.
St. Paul, MN 55102-1906

**Re: STB Docket No. AB 6 (Sub-No. 413X), The Burlington Northern and
Santa Fe Railway Company - Abandonment Exemption - in
Washington County, Minnesota**

Dear Mr. Gimmestad:

The Surface Transportation Board's Section of Environmental Analysis (SEA) has completed its review of The Burlington Northern and Santa Fe Railway Company's proposed abandonment of a .99-mile rail line in Stillwater, Minnesota, pursuant to Section 106 of the National Historical Preservation Act, 16 U.S.C. 470f (NHPA).

As you know, this rail line abandonment is located within two of Stillwater's historic districts and is adjacent to properties that are listed on the National Register of Historic Places. After consultation with you, as well as with the Stillwater Heritage Preservation Commission and the railroad, SEA has determined that the abandonment would have an effect on these historic resources. However, there is general agreement among all the consulting parties that no mitigation measures are necessary. As a result of the Section 106 consultation process, SEA developed a Memorandum of Agreement (MOA), which I have enclosed for your review and signature. If agreed upon, the MOA will be signed by the signatory and concurring parties, and the NHPA review will be complete.¹ Thereafter, the Section 106 condition imposed in this case would be removed. If no agreement is reached by the signatory parties, the consultation may be terminated, and the agency must request and take into account ACHP's formal comments prior to issuing a final decision. See 36 CFR 800.6 and 800.7.

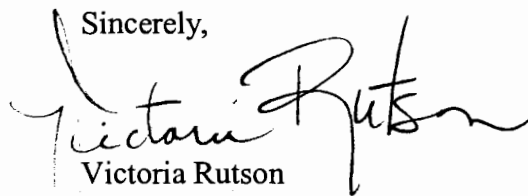
¹ Under the ACHP's regulations for implementing the Section 106 process at 36 CFR 800.6, the concurrence of consulting parties in the final outcome of the Section 106 process is not required.

I have enclosed five copies of the MOA for your review and signature. In the interest of completing the Section 106 process in a timely manner, I would greatly appreciate your response within 20 days after receipt of this letter. Please reference Docket No. AB-6 (Sub-No. 413X) in all correspondence for this proceeding. If you agree with the terms of the MOA, please sign all five copies at the appropriate line and return the originals to:

Surface Transportation Board
Section of Environmental Analysis
Attn: Christa Dean
1925 K Street, NW, Suite 500
Washington DC 20423-0001

If you have questions regarding the MOA or require further information, please do not hesitate to contact me or Christa Dean at (202) 565-1606. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" written in a larger, more prominent script than the last name "Rutson".

Victoria Rutson
Chief

Section of Environmental Analysis

Enclosure

cc: SEA Chron

**MEMORANDUM OF AGREEMENT
BETWEEN THE SURFACE TRANSPORTATION BOARD,
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY,
THE MINNESOTA HISTORICAL SOCIETY, AND
THE STILLWATER HISTORIC PRESERVATION COMMISSION
REGARDING STB DOCKET NO. AB-6 (SUB-NO. 413X)
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
-ABANDONMENT EXEMPTION-
IN WASHINGTON COUNTY, MINNESOTA**

WHEREAS, the Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption with the Surface Transportation Board (STB) under 49 CFR 1152 Subpart F - Exempt Abandonments to abandon a .99-mile rail line between BNSF Milepost 11.81 and BNSF Milepost 12.80, in Stillwater, Washington County, Minnesota (map attached as Appendix A) – STB Docket Number AB- 6 (Sub-No. 413X); and

WHEREAS, in a decision served on June 4, 2004, the STB imposed a condition for the proposed abandonment that BNSF must retain its interest in and take no steps to alter the historic integrity of all historic properties within the right-of-way that are eligible for listing in the National Register of Historic Places (National Register) until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA); and

WHEREAS, based on consultation with the Minnesota Historical Society (State Historic Preservation Office or SHPO) and the Stillwater Historic Preservation Commission (Stillwater HPC), SEA has determined that the line is partially located within the Stillwater Commercial Historic District, which is listed on the National Register of Historic Places (National Register) and is located within the Stillwater Cultural Landscape Historic District, which has been determined eligible for listing on the National Register. Additionally, the line is adjacent to individually listed National Register properties, including the Stillwater Lift Bridge, the Territorial/State Prison Warden's House, and the Chicago, Milwaukee and St. Paul Railroad Depot and Freight House (together the historic districts and properties are referred to as the "historic resources"); and

WHEREAS, the STB has consulted with the SHPO, pursuant to 36 CFR Part 800, regulations implementing Section 106 of the NHPA, and has determined that the proposed abandonment will have an effect on the above mentioned historic resources, which are either listed in or eligible for listing in the National Register; and

WHEREAS, the STB has consulted with the SHPO, BNSF, and the Stillwater HPC, pursuant to Section 36 CFR 800.6 regarding ways to avoid, minimize or mitigate effects to historic resources as a result of the abandonment and disposition of BNSF's assets and all have determined that no such measures are necessary;

NOW THEREFORE, the STB, BNSF, and SHPO agree that the execution of this Memorandum of Agreement (MOA) by the parties hereto and its subsequent submission to the Advisory Council on Historic Preservation (Council) in accordance with 36 CFR 800.6(b)(1)(iv), shall, pursuant to 36 CFR 800.6(c), be considered to be an agreement with the Council for the purposes of the NHPA. Execution and submission of the MOA, and implementation of its terms, evidences that the STB has afforded the Council an opportunity to comment on the proposed action relating to the line, and that STB has taken into account the effects of the abandonment on historic properties and is satisfying the requirements of Section 106 of the NHPA.

ACCEPTED AND AGREED

SIGNATORY PARTIES:

SURFACE TRANSPORTATION BOARD

By: _____
Victoria Rutson
Chief, Section of Environmental Analysis

Date: _____

MINNESOTA HISTORICAL SOCIETY

By: _____
Nina Archabal
State Historic Preservation Officer

Date: _____

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

By: _____
Sidney L. Strickland, Jr.
Associate General Counsel

Date: _____

CONCURRING PARTY:

CITY OF STILLWATER HISTORIC PRESERVATION COMMISSION

By: _____

Jeff Johnson
Vice Chair

Date: _____

9/3/04